

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Marija Heibel *et al.*

Serial No.: 10/826,490

Filing Date: April 15, 2004

For: Fabric Care Composition
Comprising Polymer Encapsulated
Fabric or Skin Beneficiating Ingredient

Examiner: John Hardee

Art Unit: 1751

Confirmation No.: 1345

Attorney Docket No.: 7564-00

RESPONSE TO FINAL OFFICE ACTION

This is in reply to the Office Action mailed June 13, 2006. It is timely filed on September 12, 2006.

Accompanied herewith are:

- (1) a copy of an IDS filed September 20, 2004;
- (2) a copy of the return postcard indicating the USPTO's receipt of the IDS;
- (3) a transmittal for a Request for Continued Examination; and
- (4) a Supplemental Information Disclosure Statement.

REMARKS

Claims 26-66 are pending.

Filed concurrently herewith are a Request for Continued Examination transmittal and a Supplemental IDS. Applicants respectfully request entry and consideration of these documents and the present remarks in the application.

I. The September 20, 2004 Information Disclosure Statement

Applicants have been asked to re-submit a copy of the Information Disclosure Statement of September 23, 2004 along with a copy of the return postcard from the original mailing (Final Office Action, p. 2).

Accordingly, enclosed herewith are copies of both the original Information Disclosure Statement filed September 20, 2004 and the returned postcard stamped to indicate that it was received by the USPTO on September 23, 2004. Applicants respectfully request that the Examiner indicate his consideration of the references cited by signing and returning forms PTO-1449 (2 sheets) at his earliest convenience.

II. Double Patenting Rejections

Claims 45-51, 54-57 and 59-66 have been rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 6-9 of U.S. Patent No. 6,620,777 in view of U.S. Patent Application Publication No. 2004/0071742 to Popplewell et al ("Popplewell").

Similarly, claims 45-51, 54-57 and 59-66 have been rejected as being unpatentable over claims 1-8 of U.S. Patent No. 6,864,223 in view of Popplewell.

Similarly, claims 45-51, 54-57 and 59-66 have been rejected as being unpatentable over claim 8 of copending Application No. 10/914,852 in view of Popplewell.

Similarly, claims 45-51, 54-57 and 59-66 have been rejected as being unpatentable over claims 1-9 of U.S. Patent No. 6,949,500 in view of Popplewell.

Without acquiescing to the merits of the above rejections, Applicants respectfully request that these issues be held in abeyance until the presently pending claims are otherwise found to be allowable. At that time, Applicants will offer to file a Terminal Disclaimer to obviate these rejections if appropriate.

III. Rejections Under 35 U.S.C. § 103(a)

Claims 45-51, 54-57 and 59-66 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0132749 to Smith *et al.* ("Smith") in view of Popplewell *et al.* Applicants respectfully traverse this rejection.

Smith is directed to fabric conditioners that provide efficient delivery of a fragrance. The Final Office Action acknowledges that Smith does not disclose an encapsulated fragrance as presently claimed (Final Office Action, p. 6).

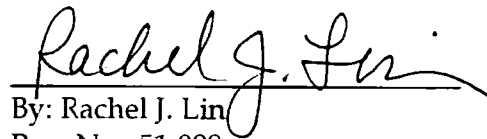
While Popplewell teaches encapsulated fragrance chemicals, the reference does not teach or suggest a **non-aqueous fabric softener composition** as recited in presently pending claim 45. Popplewell teaches polymeric encapsulated fragrances that are suitable for use in "rinse off products, which are products that are applied to a substrate and then removed in some manner." (Popplewell, Paragraph [0009]). Popplewell further specifies that an object of the chemicals disclosed therein is to "deposit capsules containing fragrance cores on desired substrates . . . during washing and rinsing processes." (*Id.* at Paragraph [0017]). However, there is no suggestion in Popplewell that its encapsulated fragrances be used in **non-aqueous fabric softener compositions**, as recited in pending claims 45-51, 54-57 and 59-66. Therefore, one of ordinary skill in the art would not be motivated based on the combined teachings of Smith and Popplewell to arrive at the compositions and methods of the present invention as recited in claims 45-51, 54-57 and 59-66. Thus, Applicants respectfully submit that this rejection has been overcome and should be withdrawn.

In light of the present remarks, it is believed that the claims are now in condition for allowance, early notice of which is earnestly solicited. Should any additional issues remain, the Examiner is invited to contact Applicants' undersigned representative at her telephone number below.

No fees are believed to be due for the filing of this Response. However, the Director is hereby authorized to charge any fees due, or credit any overpayments, to Deposit Account No. 03-2455.

Respectfully submitted,

Heibel *et al.*



By: Rachel J. Lin

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Date: September 12, 2006

RJL/dlh

Enclosures

USPN 10/52 344 Atty. BL Docket No. 750400
 Filing Date 4/15/04 Inventor(s) Heichel
 Title Fabric Case Comp. comprising Polymer Encapsulated Fabric or Skin Penetrating...
☐ New Patent Application - no U.S. Serial No. yet assigned
☐ C-I-P, Cont or Div Application under 1.53(D)
☐ Certificate of Mailing via First Class mailed on 9/30/04
☐ Certificate of Mailing via Express Mail # _____ on _____
 The following has been received in the US Patent Office on the date stamped hereon:
☐ Transmittal Letter (in Duplicate)
☐ New specification:
 ☐ Utility _____ pages ☐ Design _____ pages
☐ Combined Declaration/Power of Atty.
 ☐ Executed ☐ Unexecuted
☐ Formal ☐ Informal Drawings _____ sheet(s)
☐ Extension of Time for _____ month(s) (in Duplicate)
☐ Assignment with transmittal letter
☐ Preliminary Amendment ☐ Letter
☐ Amendment / Response
☐ Supplemental Amendment / Response
☐ Other: _____
☐ Other: _____
 Revised 3/17/04 dip

☒ Information Disclosure ☐ Supplemental IDS
☒ Form 1449 ☐ Copies of References
☐ Notice of Missing Parts
☐ Terminal Disclaimer (in Duplicate)
☐ Status Inquiry
☐ Request For Corrected Filing Receipt
☐ Affidavit ☐ Interference
☐ Issue Fee Transmittal (in Duplicate)
☐ Notice of Appeal ☐ Brief on Appeal (3 copies)
☐ Supplement to Appeal Brief

DUP 9-2004

USPN 10/52 344 Atty. BL Docket No. 750400
 Filing Date 4/15/04 Inventor(s) Heichel
 Title Fabric Case Comp. comprising Polymer Encapsulated Fabric or Skin Penetrating...
☐ New Patent Application - no U.S. Serial No. yet assigned
☐ C-I-P, Cont or Div Application under 1.53(D)
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☐ Formal ☐ Informal Drawings _____ sheet(s)
☐ Extension of Time for _____ month(s) (in Duplicate)
☐ Assignment with transmittal letter
☐ Preliminary Amendment ☐ Letter
☐ Amendment / Response
☐ Supplemental Amendment / Response
☐ Other: _____
☐ Other: _____
 Revised 3/17/04 dip

☒ Information Disclosure ☐ Supplemental IDS
☒ Form 1449 ☐ Copies of References
☐ Notice of Missing Parts
☐ Terminal Disclaimer (in Duplicate)
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☐ Issue Fee Transmittal (in Duplicate)
☐ Notice of Appeal ☐ Brief on Appeal (3 copies)
☐ Supplement to Appeal Brief

DUP 9-2004

SEP 23 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: M. Heibel, et al.

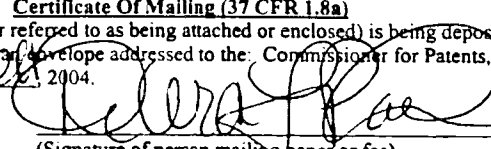
Examiner: not yet assigned

Serial No.: 10/752,344

Art Unit: 1751

Filed: April 15, 2004

For: Fabric Care Composition Comprising Polymer Encapsulated Fabric or
Skin Beneficiating IngredientMail Stop: DD
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Certificate Of Mailing (37 CFR 1.8a)	
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this <u>20th</u> day of <u>September</u> , 2004.	
Debra L. Packer (Name of person mailing paper or fee)	 (Signature of person mailing paper or fee)
	9/20/04

INFORMATION DISCLOSURE STATEMENT(References cited within 3 months of filing date or before receipt of first office action)

Dear Sir:

Pursuant to the guidelines of 37 CFR 1.97 to 1.98, enclosed are references which are attached to accompanying form PTO-1449. I hereby certify that each item of information contained in this information disclosure statement and cited in the attached form PTO-1449 is being cited within three (3) months from the filing date or before the receipt of the first Office Action, hence, no fee or certification is required.

Respectfully submitted,


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FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE REV. 7-80 PATENT AND TRADEMARK OFFICE <div style="text-align: center;"> LIST OF ART CITED BY APPLICANT <i>(Use several sheets if necessary)</i> </div>				ATTY. DOCKET NO. 7564-00		SERIAL NO. 10/825,761	
				APPLICANT Marija Heibel, et al			
				FILING DATE 4/15/04		GROUP 1751	
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
		3516941	6/23/70	Matson	252	316	
		3576760	4/27/71	Gould et al	252	403	
		3915867	10/28/75	Kang et al	252	8.8	
		3956350	5/11/76	Pusch et al	260	404.5	
		4209417	6/24/80	Whyte	252	174.11	
		4234627	11/18/80	Schilling	427	242	
		4339356	7/13/82	Whyte	252	522	
		4464271	8/7/84	Munteanu, et al	252	8.6	
		4767547	8/30/88	Streaathof, et al	252	8.8	
		4806345	2/21/89	Bhattacharyya	424	70	
		4830771	5/16/89	Ruback, et al	252	8.8	
		4976961	12/11/90	Norbury, et al	424	401	
		5137646	8/11/92	Schmidt, et al	252	8.8	
		5154842	10/13/92	Walley, et al	252	8.6	
FOREIGN PATENT DOCUMENTS							
		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION
							YES NO
		1111616	11/3/81	Canada			
		90/12862	11/1/90	PCT			
OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)							
EXAMINER				DATE CONSIDERED			

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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Signature: _____

Date _____

FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE
REV. 7-80 PATENT AND TRADEMARK OFFICE

ATTY. DOCKET NO.

7564-00

SERIAL NO.

10/825,761

LIST OF ART CITED BY APPLICANT
(Use several sheets if necessary)

APPLICANT

Marija Heibel, et al

FILING DATE

4/15/04

GROUP

1751

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	5501806	3/26/96	Farooq, et al	252	8.8	
	5637743	6/10/97	Contet, et al	554	52	
	5939377	8/17/99	Ewbank, et al	510	475	
	6020304	2/1/00	Ceulemans, et al	510	527	
	6042792	3/28/00	Shefer	422	259	
	6194375	2/27/01	Ness, et al	512	4	
	6329057	12/11/01	Dungworth, et al	428	403	
	6620777	9/16/03	Heibel, et al	510	516	
	2004/0071742	4/15/04	Poppewell, et al	424	401	
	2004/0071746	4/15/04	Poppewell, et al	424	401	
	2004/0072719	4/15/04	Bennett, et al	512	1	
	2004/0072720	4/15/04	Brain, et al	512	4	

FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
					YES	NO

OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)

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DATE CONSIDERED

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